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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,668	10/22/2001	Timothy B. Hansen	HAN001	5329

7590 10/10/2003

John J. Fry
7367 Shadowbrook Drive
Kirtland, OH 44094-9741

EXAMINER

NOORI, MAX H

ART UNIT	PAPER NUMBER
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2855

DATE MAILED: 10/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/003,668

Applicant(s)

HANSEN ET AL.

Examiner

Max Noori

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Golovniscky et al., in view of Newman.

Regarding claims 1, 12-14, 22-23, 32, 35, and 37, Golovanivsky et al., discloses a food irradiation apparatus using a first x-ray generator, a support and a chamber to hold a food for exposure to radiation. Golovanivsky et al., does not specifically recite a rotating support. The use of rotating support in food irradiation, however, is notoriously known. Newman, for example is presented to show such arrangement. Newman discloses a food irradiation apparatus using a rotating support (element 135). It would have been obvious, therefore, to one having ordinary skill in the art at the time the invention was made to modify Golovanivsky et al., to provide for a rotating support in order to irradiate all the desired portions of a food for a complete irradiation as taught Newman. The apparatus made by the combined art, can take any food in any condition.

Regarding claims 2, 24, the source is disposed axially.

Regarding claims 3-10, 15-17, 19-21, 25-26, the combined art teaches the use of plurality of sources positioned in appropriate locations (see Golovanivsky et al., col. 2, line 66, and Newman's figure 4).

Regarding claims 11, 27, Golovanivsky et al., already discloses the related dimensions (col. 7, lines 45-).

Regarding claim 18, Newman teaches the use of a door (see figure 1).

Regarding claims 28, 36, and 38, the combined art can take related quantity of any food.

Regarding claims 29-30, 33-34, it appears that most of x-ray sources, comprises an x-ray tube having cathode and anode.

Response to Amendment

3. Applicant's amendment and arguments filed 9/22/03 have been fully considered but they are not persuasive. It appears the cited art teaches the main aspect of the invention, i.e., a food irradiation device with x-ray source and a rotational support. The provision of the specific condition of the food does not alter the elements or the structure of the apparatus claim. Such arguments are more relevance probably in a method claim. The argument regarding the size is not persuasive either, since once a skill artisan use the conceptual teaching of the combined art, provision for compensation or adjustment of the size or dimensions is an obvious modification.. Therefore, the combined art make the apparatus claim of the invention obvious and rejection still holds.

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4. THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Max H. Noori whose telephone number is (703) 308-5248. The examiner can normally be reached on Monday-Friday from 8:00 AM to 5:30 PM.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956. The fax number for this group is (703) 308-7382.

MHN

Wednesday, October 08, 2003



MAX NOORI
PRIMARY EXAMINER